

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

WILLIE SAFFO,)
Plaintiff,)
vs.) Civil Action No. 07-1306
) Judge Joy Flowers Conti/
WARDEN WILLIAM SCHOUUPPE; MS.) Magistrate Judge Amy Reynolds Hay
CAROL STEEL SMITH, Director of)
Treatment Beaver County Jail; RICK)
TOWCIMAK; BEAVER COUNTY)
PRISON BOARD; JOE SPANIK; BEAVER)
COUNTY COMMISSIONERS, et al.,)
Defendants.)

REPORT AND RECOMMENDATION

I. RECOMMENDATION

It is respectfully recommended that plaintiff's motion to proceed *in forma pauperis* [Doc. 1] be denied and that the case be dismissed without prejudice to refiling upon payment of the filing fee.

II. REPORT

Willie Saffo ("Plaintiff") is currently held at the Beaver County Jail. He has sought leave to proceed *in forma pauperis* in order to file a civil rights complaint in this court, suing various Beaver County Jail employees and related entities/persons for alleged violations of his Fourteenth Amendment rights based upon his allegedly being denied access to the law library on several occasions to research his criminal case, notwithstanding the fact that Plaintiff has private counsel representing him in the criminal case.¹

¹ The Court may take judicial notice of the Docket of the Beaver County Court of Common Pleas in the case of Commonwealth v. William Saffo, No. CP-04-CR-0000335-2007, wherein the docket indicates Plaintiff has privately retained counsel. That docket is available at:

On October 2, 2007, this Court issued a Rule to Show Cause directing plaintiff to show why his request for leave to proceed *in forma pauperis* should not be denied in light of the fact that he has brought at least three prior cases that were dismissed as frivolous or lacking in merit, and failed to meet the threshold showing of that he is in imminent danger of serious physical injury, as is required under such circumstances. See 28 U.S.C. § 1915(g). See also Abdul-Abkar v. McKelvie, 239 F.3d 307 (3d Cir. 2001); Banos v. O'Guin, 144 F.3d 883, 884 (5th Cir. 1998). Plaintiff was also advised that “[f]ailure to respond by October 25, 2007 will result in Plaintiff’s motion to proceed *in forma pauperis* being denied and his case being dismissed without prejudice to re-filing upon payment of the filing fee.” Rule to Show Cause, p. 5 [Doc. 3]. To date, plaintiff has failed to respond to the Rule to Show Cause or otherwise provided the Court with any reason why his case should be permitted to go forward without paying the requisite filing fee.

For these reasons, it is recommended that plaintiff’s motion to proceed *informa pauperis* [Doc. 1] be denied and that the case be dismissed without prejudice to re-filing upon payment of the filing fee.

Within ten (10) days of being served with a copy, any party may serve and file written objections to this Report and Recommendation. Any party opposing the objection shall have seven (7) days from the date of service of objections to respond thereto. Failure to file timely objections may constitute a waiver of any appellate rights.

Respectfully submitted,

/ s/ Amy Reynolds Hay
AMY REYNOLDS HAY
United States Magistrate Judge

Dated: November 15, 2007

cc: Willie Saffo
Beaver County Jail
6000 Woodlawn Boulevard
Aliquippa, PA 15001